

REMARKS

A reconsideration of this application is respectfully requested.

In the Final Rejection, the following actions were taken:

1. Claims 3, 4, 9, 17 and 18 were rejected under 35 USC 102(b) as anticipated by, or in the alternative, under 103(a) as obvious over EP 315,204.

2. Claims 3, 4, 6, 9, 17 and 18 were rejected under 35 USC 103(a) aa being unpatentable over Ambuter et al (USP 6,083,422) in view of EP 315,204.

The Examiner is respectfully requested to reconsider these rejections particularly in the light of the amended claims presented herewith.

With respect to the Section 102(b) rejection of Claims 3, 4, 6, 9, 17 and 18 as anticipated by EP 315,204, the Examiner states at page 4, lines 8 and 9 from the bottom that "the hindered amines as taught by '204 are the same (underline added) as those recited by the instant claims". Applicant submits, however, that Claim 18, submitted with the Amendment of Feb. 14, 2006, recites a method in which the definition of the hindered amine is substantially restricted over that originally presented and considered by the Examiner in the first Office Action. Whatever the reason for not considering the restricted definition, it is respectfully submitted that the definition clearly took Claim 18, and its dependent claims, outside of the '204 disclosure as well as outside of the provisions of Section 102(b) for denying patentability. Furthermore, Claim 18 has now been further restricted.

in definition by the present amendment which defines the hindered amine according to the particularly preferred embodiment set forth in the last paragraph on page 3 of the specification.

In view of the above comments, it is submitted that the Section 102(b) rejection should be withdrawn.

As to the obviousness Section 103(a) rejection based on the '204 patent and which is directed primarily to the various limitations defined in the dependent claims as being obvious to one of ordinary skill in the art at the time the invention was made (page 5, last paragraph of the Office Action). Applicant supposes that one may take either side of the obviousness argument based on his perspective. Applicant is inclined to contend that these limitations are not obvious and believes that he is correct, but even assuming that they are obvious, this would still not overcome the lack of disclosure or teaching of the hindered amine limitation as discussed above with respect to the Section 102(b) rejection.

Accordingly, it is submitted that the Section 103(a) rejection based on the '204 patent should also be withdrawn along with the Section 102(a) rejection.

With respect to the Section 103(a) rejection of the claims based on Ambuter in view of the '204 patent, the same arguments as presented above apply here as well. Ambuter, considered either as the primary or as the secondary reference, does not disclose the hindered amine as previously defined in Claim 18 and as now defined in amended Claim 18. Nor does the '204 patent, as discussed

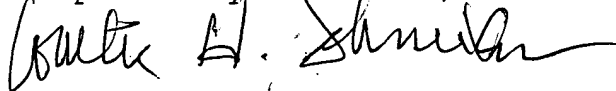
above. Contrary to the Examiner's statement in the paragraph bridging pages 6 and 7 of the Office Action, it may have been obvious to one skilled in the art to use the hindered amine of '204 in the composition of Ambuter, but the hindered amine of '204 is not the hindered amine of Claim 18 and the composition of Ambuter is not the composition of Claim 18.

A withdrawal of the Section 103(a) rejection based on Ambuster in view of the '204 patent is respectfully requested.

As to the Examiner's statement (page 7 of the Office Action) that "---the discovery of a previously unappreciated property of a prior art composition, or of a scientific explanation for the prior art's functioning, does not render the old composition patentably new---", Applicant simply states that his composition and method are new, as are the benefits, both being disclosed for the first time in this application. It is submitted, therefore, that the Examiner's point may be well taken but it is moot in this fact situation.

Applicant respectfully requests that the several rejections be withdrawn and that Claims 1, 6, 9, 17 and 18 presented herewith be allowed. In the absence of such action, it is respectfully requested that the Amendment with the amended claims be entered into the record for purposes of appeal.

Respectfully submitted,



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